IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

OP.No. 17483 of 2002(F)

PETITIONER:

HEAD LOAD AND GENERAL WORKERS UNION, (CITU),PAROLICKAL UNIT,REPRESENTED BY ITS CONVENOR T.P.PRASAD

BY ADV. SRI.T.A.SHAJI

RESPONDENTS:

1. **KERALA HEAD LOAD WORKERS WELFARE BOARD, ATHIRAMPUZHA/ETTUMANOOR SUB OFFICE,SEVENS BUILDING,ATHIRAMPUZHA,REPRESENTED BY ITS CHAIRMAN**
2. **KURIAN JOSEPH,ARACKATHALAYIL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
3. **REJI KURIAN,KOOZHIYIL HOUSE, ETTUMANOOR P.O.,KOTTAYAM DISTRICT**
4. **P.R.SASI,PONNATTITHALACKAL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
5. **V.P.REJI,KALLAMBURAM HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
6. **P.C.JOSE,PUTHUSSERIYIL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
7. **N.M.BABU,NELLICKATHADATHIL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
8. **SIBI SEBASTIAN,ARACKTHALAYIL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
9. **K.M.CHERIAN,KARINILKUMTHADATHIL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**
10. **REJI THOMAS,PONNATTITHALACKAL HOUSE, ATHIRAMPUZHA P.O.,KOTTAYAM DISTRICT**

BY ADV. SRI.A.V.RAMAKRISHNA PANICKER, SC,KHLWWB
SRI.MATHEW JOHN (K)
SRI.BABY THOMAS
SRI.BABU KARUKAPPADATH, SC,KHLWWB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05 /01/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

O.P. No. 17483 OF 2002 F

Dated this the 5th day of January, 2007

J U D G M E N T

The petitioner is a union of head load workers of the Parolickal area of Athirampuzha Sub Committee under the Kerala Head Load Workers Act and the scheme framed thereunder. The petitioner is aggrieved by Ext.P2 resolution of the Athirampuzha and Ettumanoor Advisory Samithies of Kottayam local committee of Kerala Head Load Workers' Welfare Fund Board, whereby on the ground that there is considerable increase in the head load work in the area in question, it has been decided to include respondents 2 to 10 as head load workers of the Parolickal area for doing loading and unloading work and to include them in the Athirampuzha local committee of Head Load Workers' Welfare Fund Board. One of the contentions in the original petition is that because the committee itself took the decision, the petitioner has been deprived of its right of appeal under Rule 6E of the Kerala Head Load Workers' (Regulation of Employment and Welfare) Scheme, 1983. In answer to this, the counsel for the 1st respondent submits that by virtue of Clauses 16 and 19 of the Kerala Head Load Workers' (Regulation of Employment and Welfare) Scheme, 1983, the

committee has power to direct the inclusion of head load workers in a particular area and it is in exercise of such power that Ext.P2 order has been passed. On a reading of Clause 16 and 19, I find that Ext.P2 order cannot be found fault with on the said ground mentioned in the original petition.

2. On merits I find that the committee has passed Ext.P2 order on a finding that in the area in question there is considerable increase in work. Whether there is increase in work or not is a pure question of fact, which cannot be interfered with by me in exercise of my jurisdiction under Article 226 of the Constitution of India. However, I make it clear that while giving work to respondents 2 to 10, the 1st respondent shall ensure that the work available to the already existing workers of the area shall not be in any way reduced.

The original petition is disposed of as above.

(S. SIRI JAGAN, JUDGE)

aks

S. SIRI JAGAN , J.

OP No.17483/02 F

J U D G M E N T

5th January, 2007